



Better Cities – A Better Life

League of California Cities

1400 K Street
Sacramento CA 95814
916.658.8200
FAX 916.658.8240
www.cacities.org

October 27, 2003

William Keese, Chair
Robert Pernell, Commissioner
Arthur Rosenfeld, Commissioner
James Boyd, Commissioner
John Geesman, Commissioner
California Energy Commission
1516 Ninth Street
Sacramento, Ca. 95814

RE: 2005 Building Energy Efficiency Standards
California Outdoor Lighting Standards
Proposed Regulations – October 21, 15 Day Express Language
League of California Cities Comments

Dear Chairman Keese and Commissioners Pernell, Rosenfeld, Boyd and Geesman:

On behalf of the League of California Cities, I write to provide these comments on the October 21 draft of the 15-Day Express Language for the Commission's proposed outdoor lighting standards, promulgated as part of SB 5X.

Until recently, the League had not been involved in the details of the Commission's lengthy regulatory process. We previously had talked with Commission staff about the regulations and as a result, earlier this year informed city officials about the Commission's proceeding so that individual cities could provide review the material and input. However, based upon language included in the previous 45 day draft of the regulations, ten days ago we conveyed our serious concerns to Commission staff and our intent to strenuously oppose the regulations unless the offending provision was deleted. I am pleased to note that, consistent with staff's verbal communication, the October 21 draft does indeed delete the objectionable language. On behalf of the League, I wish to express our appreciation for this important change.

At issue was language included on pages 16 and 17 of the previous 45-day notice version. It stated: *"When a local jurisdiction adopts a lighting zone that is higher than the statewide default lighting zone, no more than 20% of the total dry land area in the jurisdiction shall be changed to higher lighting zones."* By limiting the area in a city (or county) that could be included in a particular lighting zone, the regulations (and thus the Energy Commission) would be dictating local zoning and land use policy to local government. The language could also impact what types of businesses are to be proposed, located and permitted in a city.

As I am sure you are aware, local land use authority is a vitally important policy and principle for local governments through the state. Thus, the League expressed our strong concerns to staff that the preemption language would put the Commission and these regulations in the position of determining local land use decisions, instead of the local officials in a city or county.

Not only does the League oppose this language for these land use preemption reasons, we do not believe that the Commission has the statutory authority to take such action. SB 5X, which directed the Commission to adopt new outdoor lighting standards, does not include any authorization for the Commission to set an arbitrary limit on how much of a city's land area can be devoted to one or more lighting zones.

After a productive discussion with Commission staff, we learned that this restriction would be deleted from the 15-day language. The October 21 draft of the 15-day version of the regulations does indeed delete this language. We appreciate the Commission's understanding of our concerns and response to our request that this restriction be deleted from the regulations.

The League's commitment to energy conservation and energy efficiency is well established. Over the last decade, and in particular during the 2001 energy crisis, the League has worked closely and cooperatively with the Energy Commission to promote energy conservation and energy efficiency among cities. During the 2001 energy crisis, the League worked in close partnership with the Governor's Office, the Energy Commission, the PUC, OES and other state agencies on activities designed to promote conservation and avoid rotating blackouts. Thus, our strong objection to the provision in the draft regulations that would have preempted land use authority is not in any way based upon a lack support for the importance of energy conservation and improved lighting efficiency.

Once the Commission has adopted the final outdoor lighting standards package, the League would be happy to assist the Commission educate city officials about standards. We would be happy to meet with Commissioners and/or staff to discuss the best way to share the information with city officials, help the Commission make its written materials readily available to city officials, explore offering workshops, or other ways to assist in educating city officials about these new, important standards.

We appreciate that the objectionable language, which would preempt local land use authority, has been deleted from the proposed regulations. As long as this language remains deleted, the League will have no objections to the proposed regulations, although we recognize that individual cities may have comments about other parts of the regulations.

Thank you for the opportunity to provide these comments. If you have questions about our position, please do not hesitate to contact me at 916-658-8242.

Sincerely,

Yvonne Hunter

Yvonne Hunter
Legislative Representative

Cc: Gary Flamm, Building Standards
Bill Pennington, Manager, Building and Appliances Office
Scott Matthews, Chief Deputy Executive Officer
Valerie Hall, Deputy Director, Energy Efficiency and Demand Analysis Division